

11 please file in case # 00-17-00000

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA  
HARRISBURG DIVISION

(26)

10-6-00

JOHN RICHARD JAE  
Plaintiff  
vs.

FILED  
HARRISBURG, PA

OCT 05 2000

CRT/No 1-CK-00-109

U.S. District Judge  
Magistrate Judge Smyse

DR. ROBERT CLARK et al.  
Defendants.

MARY E. D'ANDREA, CLERK  
Per Deputy Clerk

PLAINTIFFS REPLY BRIEF TO CORRECTIONS DEFENDANTS' BRIEF  
IN OPPOSITION TO PLAINTIFFS MOTION FOR ENLARGEMENT OF TIME

COMES NOW, the Plaintiff and his Counsel in the above entitled  
Action, John Richard Jae, as a Layman Unlettered in the Arts & Sciences of the Law  
procedures within the United States & now pursuant to M.D. LRT  
this Court files his Plaintiffs Reply Brief to Corrections Defendants' Brief  
Opposition to Plaintiffs Motion for Enlargement of Time, Heer, & who, over, & dep

Corrections Defendants claim & argue, that:

"Plaintiffs Motion is nothing more than a ploy to prolong this  
litigation in the hopes of getting brief in a suit that he  
was not entitled to bring in the first place."

By way of response to the above - untrue & legally & factually  
claim/argument of Corrections Defendants, Plaintiff JAE & submits, that  
such is an out & out "lie", that, second of all, Plaintiffs Motion  
is a ploy to prolong this litigation in the hopes of getting relief, as  
was not entitled to bring in the first place, as, such Motion  
as such states therein such and was brought for the reasons stated  
and that this Plaintiff was entitled to bring this suit in the first place  
as he has a constitutional right to file suit against Defendants  
violate the law & Plaintiffs constitutional rights, and that the  
Corrections Defendants' claim/argument that, "Plaintiffs Motion is  
than a ploy, ect," is mere speculation and is specious, as  
Defendants offer nothing at all to support such legally & factually  
frivolous, specious, "lying" claim/argument of their here.

Corrections Defendants also "lie" & claim & argue, that:

"plaintiff was not entitled to bring this suit on an in forma pauper's basis. His in forma pauper's status was revoked in other cases in this court due to his record of frivolous litigation. His representation to the court in his motion for in forma pauper's status, that he was entitled to this status was false. If plaintiff had been honest and disclosed to this court that his in forma pauper's motion had been previously revoked in other cases, it is doubtful that this court would have granted plaintiff in forma pauper's status to maintain this suit." 2/

Plaintiff, by way of reply to the above untrue & legally & factually frivolous specific claims and arguments of corrections Defendants, avers & submits that first, plaintiff was & is entitled to bring this suit on an in forma pauper's basis by law, (28 U.S.C. § 1915G), as he claimed & set forth facts showing that he was in danger of imminent serious physical injury, & that, second of all, his representation to the court in his motion for in forma pauper's status, that he was entitled to this status, "was" not false, but was & is true, & corrections Defendants fail to offer any evidence at all other than their claim "lies", that such was false and what's more is that corrections Defendants claim/argument here ignores the "fact", that by law (28 U.S.C. § 1915G) plaintiff can have thousands of prior suits dismissed as frivolous for failure to state a claim upon which relief can be granted, and as he shows that he is under danger of imminent serious physical injury, he is entitled to bring all of the suits he want in this court in forma pauper's status and corrections Defendants in their Motion to Revoke Plaintiff's in forma pauper's status and Brief in support do not in their Briefs to Plaintiff's Motion for enlargement of time, do not challenge nor do they dispute the facts which this plaintiff alleged as to why he is under imminent danger of physical injury was & is true, nor do they offer at all proving such is untrue, & third of all, plaintiff did not disclose to this court in his in forma pauper's motion that his in forma pauper's motion had been previously revoked in other cases, nor did he state that, yes, he has had three or more prior suits dismissed as frivolous for failure to state a claim upon which relief can be granted and that he is under imminent danger of serious physical injury, and that the plaintiff is entitled to bring all of the suits he want in this court in forma pauper's status.

do, herein, and thus he "has" been completely and fully honest herein to the court and that, fourth of all, Corrections Defendants' claim/argument, that if Plaintiff had been honest and disclosed to this court that his In Forma pauperis motion had been previously raised in other cases, it is doubtful that this court would have granted Plaintiff In Forma pauperis status to maintain this suit. It is nothing more than mere unsubstantiated speculation. Corrections Defendants, herein, and that Corrections Defendants do nothing showing that such claim/argument of theirs here is true.

Corrections Defendants also "re" claim & argue that:

"In the Appendix to Corrections Defendants' motion to Revoke Plaintiff's In Forma And Its Defen Filing of Responsive Pleading To Plaintiff's Amended Complaint ("Corrections Defendants' Appendix"), the corrections defendants provided the court with an adequate basis for revoking Plaintiff's In Forma pauperis status." 7

By way of Reply to the above frivolous & specious claim and arg of corrections Defendants, Plaintiff avers & submits, that First of all Corrections Defendants' Appendix does "not" provide this court with adequate basis for revoking Plaintiff's In Forma pauperis status. What's more Corrections Defendants fail to show and argue anything at all showing how their Appendix provides an adequate basis for Plaintiff's In Forma pauperis, and, second of all, such arg ignores the law surrounding In Forma pauperis status and by law, all Plaintiff has to do is show that he is in imminent danger of serious physical injury and he can prove same in federal court, and that he "has" done so herein and thus Defendants' arguments here "must" as a matter of law, fail.

Corrections Defendants also "re" claim & argue, that:

"In the cases giving rise to the decisions contained in Corrections Defendants' Appendix, Plaintiff made every conceivable argument in which he could oppose revocation of his In Forma pauperis status. The opinions in those cases comprehensively dealt with the issues raised by Plaintiff. It is doubtful that Plaintiff can come up with any new arguments, especially considering his present status. The additional time sought by Plaintiff will, in all likelihood, yield no new and relevant arguments than those previously."

s/ See Corrections Defendants' Brief in opposition to Plaintiff's Motion for Enlargement of Time, at 2.



rejected 11/7/

By way of reply to such legally frivolous & specious claim & arg of Corrections Defendants, Plaintiff avers & submits, that, first of all, Plaintiff did not make every conceivable argument in which he could abuse of his In forma pauperis status in the cases giving rise to the decisions contained therein [REDACTED]

Corrections Defendants' Appendix, he only made arguments challenging the constitutionality of PLRA in such cases, and, second of all, giving the facts, the court did not address all of the Plaintiff's challenges or he raised in his pleadings in such cases. In its opinions in such cases, such opinions in those cases did not completely deal with the issues raised by the plaintiff therein. Such cases third of all, since this Plaintiff will not be arguing anything to the constitutionality of the PLRA herein this case at additional time sought by plaintiff will, in all likelihood new and different arguments than those previously rejected.

Corrections Defendants also "re" & claim & argue that

"Finally, the reasons asserted by Plaintiff for the need for his extension are either specious or belied by the record. Plaintiff, who is confined in the RHU, has little or no property in his current possession that needs to be packed up for his transfer. It is the staff at the camp that, not Plaintiff, who is responsible for his transfer. Plaintiff simply needs to get on the bus."

By way of reply to the above - factually frivolous & specious Corrections Defendants, Plaintiff avers & submits, that, first of all, the reasons asserted by the plaintiff for the need for his extension are, and are not belied by the record, as, plaintiff has, in fact, denied access to the RHU Mini Law Library here, a fact which Defendants do not counter or dispute and in as far as Plaintiff states he needs such extension as he is getting ready to go to another state prison within the next several weeks for his referring to how it will take several weeks at least legal & other personal property to arrive at his new state prison to get such in his possession.

corrections. Defendants also "1" & claim, argue, that:  
 "His claim of being denied access to legal materials is contradicted by his motion on temporary restraining order and/or an Expedited Preliminary Injunction motion" filed in this case. Notwithstanding his claims of restrictions, Plaintiff was able to file that motion on affidavit and a brief in support that was replete with citations. Clearly, Plaintiff has access to all the legal resources required to frame a response to Corrections Defendants' motion to Revoke Plaintiff's In Forma Pauperis Status and to defer filing of responsive pleading to Plaintiff's Amended Complaint." 9/

By way of response to such above-claim/argument of corrections Defendants avers & submits, that, first of all, Plaintiff's request for an enlargement of time because he has been denied his legal materials and Court has received his legal materials and Court case file in this case here, therefore, corrections Defendants' above-claim/argument is likewise moot. Second, even if the above were not so, corrections Defendants' above-claim/argument would still fail, because just because the Plaintiff has legal resources necessary to prepare one motion and does "not" automatically mean that he has the necessary legal resources needed to file a different kind of motion/brief, etc., as he needs for one motion/brief may very well be totally different than what he needs to file another motion/brief, as was the case herein.

Corrections Defendants also lie & claim & argue, that:  
 "This Court has been overly generous to Plaintiff in opening its doors to him. Plaintiff repaid this Court with frivolous suits and false representations. Plaintiff is not entitled to further indulgences and Plaintiff's motion should be denied." 10/

However, by way of reply to such frivolous and specious ludicrous claim and argument of corrections Defendants, Plaintiff avers & submits, that, records in the cases which Plaintiff has filed in this court, be it sparse corrections Defendants' claim argument here, as not one of in any of such ten (10) or so cases, has this court ever stated nor that any of such cases are a frivolous suit nor has this court ever held that this Plaintiff has ever once misrepresented the facts of such cases & corrections Defendants counsel knows such is true at all, and he has committed fraud and has made false representations to the court by stating such.



Correction. Defendants also claimed & argued that:  
 "Plaintiff asks for an enlargement of ~~30~~ (60) days of time point in his motion and then asks that November 27, 2000 be set as the due date for his response, which would be a thirty day extension under plaintiff's calculations." //

However, in reply to such ludicrous, specious & frivolous claim/arguments Corrections Defendants, Plaintiff avers & submits, that, in his Motion for Enlargement of Time, plaintiff requests an enlargement of time of sixty (60) days September 27, 2000, which any second grader can tell you is Nov 27, 2000, and not only thirty days as Corrections Defendants erroneously claim and even a moron knows this.

In No. 1, of their Brief in Opposition to Plaintiff's Motion for Enlargement of Time, Corrections Defendants also claim & argue, that:

"Plaintiff admits that Corrections Defendants' Motion was served on September 8, 2000. Motion at 5. Plaintiff's Response would be due on September 25, 2000 (ten business days from September 8, 2000, plus three days for service by mail). Plaintiff contends that he received the Corrections Defendants' Motion on September 12. Id. It is unclear how he comes to calculate September 27, 2000 as the due date for his response, since ten business days from his alleged receipt of the Corrections Defendants' Motion would fall on September 25, 2000."

However, by way of response to such frivolous & specious claim/arguments Corrections Defendants, Plaintiff avers & submits, that, first of all, in No. 5 of his motion for enlargement of time, herein, this Plaintiff now admits that Corrections Defendants' Motion was served on him on September 8, 2000, although he does contend, (what is true) therein, that such Motion actually received by him on September 12, 2000, here and that, second, ~~ten~~ ten business days from September 12, 2000, "is" indeed September 20, 2000 (Plaintiff did mistakenly calculate this as September 27, 2000, and adding the three extra days for service by mail and the actual date for the plaintiff's reply to such motion "is" September 29, 2000, September 25, 2000, as Corrections Defendants "lie" & claim.

Corrections Defendants also "lie" & claim & argue, that:

"Plaintiff raised these same allegations in another case pending before this court: *Shae [redacted] et al.*, Civil Action No. 1:00-cv-001. As Defendants therein shewed, his claims of denial of access to legal property were unfounded and reflected plaintiff's unwillingness

Confinement. For the courts benefit, Corrections Defendants are including as an Appendix to this Brief, the Filings defendants made in *Dr. Long et al., Civil Action No. 1:CV-99-0071* showing the baselessness of plaintiff's claims of denial of access to his legal property. 13/

However, by way of reply to such frivolous, specious & untrue claims by Corrections Defendants, Plaintiff avers & submits that, first of all, Defendants have "not" showed in *Dr. Long et al., Civil No. 1:CV-99-0071*, Plaintiff's claims of denial of access to legal property were unfounded given what this Plaintiff alleged & argued therein in his Plaintiff's Reply Brief To Major Frank Dennis' Response And Opposition To Plaintiff's Motion For Order Directing Scot-Camp Hill Prison officials to Return Plaintiff's Law Books And Court Case Files To Him, which this Plaintiff now hereby incorporates herein by reference hereto the same and this has "not" ruled that Plaintiff's claims of denial of access to legal property were unfounded nor that Defendants showed therein such case and thus Defendants are "not" entitled to such argument herein this case, nor had Defendants showed such case that such reflected Plaintiff's unwillingness to abide by & follow mandatory Dept. of Corrections policies associated with Plaintiff's confinement here, and that, second of all, Corrections Defendants "have" violated Fed. R. Civ. P. Rule 37 M.D. LR 4.2 of this Court, by "not" serving a copy of such Appendix to Corrections Defendants' Brief In Opposition To Plaintiff's Motion For Enlargement Of Time herein, Upon this Plaintiff, this Court, law, is "not" permitted to review nor consider such documents, must order such stricken from the Record of this here case, and third of all, such claim of denial of access to legal property of Plaintiff are "not" baseless.

Corrections Defendants also "re" & claim & argue that =

Plaintiff's claim of the need for legal research should be considered with equal support. First of all, Plaintiff could have conducted his legal research by using the public library of the corrections defendants. He offers no explanation as to why he did not do so. Clearly, Plaintiff has a duty to conduct his research.

See Corrections Defendants' Brief In Opposition To Plaintiff's Motion For Enlargement Of Time herein, Upon this Plaintiff, this Court, law, is "not" permitted to review nor consider such documents, must order such stricken from the Record of this here case, and third of all, such claim of denial of access to legal property of Plaintiff are "not" baseless.



resources as reflected by the brief he filed in support of his PRO/PJ motion. More importantly, plaintiff has already faced similar motions in the cases relied upon in Corrections Defendants' Motion. He filed lengthy briefs in those cases complete with extensive case citations. Thus, plaintiff has already conducted his legal research on the issues presented by Corrections Defendants' Motion. Whatever supplementary research needed could have been conducted in the time plaintiff originally had to file his response to Corrections Defendants' Motion. 13

However, by way of reply to such frivolous, specious and untrue claims of Corrections Defendants, plaintiff avers & submits that, first of all, just how could he have conducted his legal research following receipt of the Corrections Defendants' Motion, when, as he states therein Paragraph No. 7 of his Motion For Enlargement of Time, herein, the Prison RHU Lieutenant and officers not allow him to go to & use the Prison's RHU Main Law Library for such legal research, a fact which Corrections Defendants fail to call into dispute in their brief, that, second of all, plaintiff does offer an explanation as to why he did not do so in Paragraph No. 7 of his Motion For Enlargement of Time, to-wit, that the Prison RHU Lieutenant and officers would not let him go to & use the Prison's RHU Library here to do such legal research; that, third of all, as already argued & set forth herein, supra, it is just because access to legal research resources necessary to prepare a motion and/or brief, etc., does "not" necessarily auto mean that he also has the necessary legal research resources to prepare and file a different kind of motion, brief, etc. What he needs to prepare & file one type of motion and/or brief be totally different than what he needs to prepare & file a different kind of motion and/or brief, etc., as is the case as when he prepared his Motion For Temporary Restraining Order, An Expedited Preliminary Injunction and Brief In Support, herein, his own Prisoners' Self-Help Litigation Manual which he had in his possession to enable him to do so, however, for his Reply Brief In Opposition to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status, Defendant's responsive pleading to Plaintiff's Amended Complaint, etc.



such Shepard and Colton and Legal Treatises Books are in the mini Law Library Books here, that, fourth of all, as he already has set forth & argued herein, supra, at Plaintiff's such of cases only challenged the constitutionality of the PLRA, however herein this instant case, he will not be doing so and will making new/different arguments herein, in response to ~~correcting~~ Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status, Defer Filing of Responsive Pleading to Plaintiff's Amended Complaint and therefore such legal research trip to the Prison's RHU Mini Library here is necessary before Plaintiff can file his Reply to such Defense Motion, herein this case, and thus, this Plaintiff "not" already conducted his legal research on the issues presented Corrections Defendants' Motion, herein, and that, fifth of all, how could Plaintiff have conducted such supplementary legal research needed in the time he originally had to file his response to Corrections Defendants' Motion, when the Prison's RHU and Officers would "not" allow him to go to use the Prison's Law Library at all during such time period here?

Corrections Defendants also "lie" & claim & argue that "There is neither a factual or legal basis for Plaintiff's Motion."

However, by way of reply to such specious, frivolous & untrue claim, Corrections Defendants Plaintiff avers & submits, that, based upon what he set forth in such Motion for Enlargement of Time and also what he sets forth and argues, herein this Reply Brief, that "is" most certain a factual and a legal basis for such Plaintiff's Motion.

Finally, Correction Defendants request:

"that the court deny Plaintiff's Motion and revoke his In Forma Pauperis Status." 15/

However, in response to such, Plaintiff avers & submits, that this Court to do so would illegally deny Plaintiff his right to Corrections Defendants' Motion to Revoke Plaintiff's In Forma Pauperis Status. Plaintiff's Motion for Enlargement of Time.

Pauper's Status And To Defer Filing Of Responsive Pleading To Plaintiff's Amended Complaint and would leave such unopposed, herein, it would be especially egregious since such Defendant's Motion is frivolous and by law must be denied, herein, and that the Court should "not" do =

(W) HEREBY, this Court should grant Plaintiff's Motion For Enlargement of Time. In Full, herein this case =

RESPECTFULLY SUBMITTED =

(s) John Richard Jare  
MR. JOHN RICHARD JARE  
Plaintiff and Pro Se Counsel

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Dated = 1st OCTOBER 2000 =